

QUESTIONS AND ANSWERS ABOUT THE WORKPLACE RIGHTS OF MUSLIMS, ARABS, SOUTH ASIANS, AND SIKHS UNDER THE EQUAL EMPLOYMENT OPPORTUNITY LAWS

Since the attacks of September 11, 2001, the Equal Employment Opportunity Commission (EEOC) and state and local fair employment practices agencies have documented a significant increase in the number of charges alleging workplace discrimination based on religion and/or national origin. Many of the charges have been filed by individuals who are or are perceived to be Muslim, Arab, South Asian, or Sikh. These charges most commonly allege harassment and discharge.

In order to help people better understand their rights, EEOC has posted detailed information on its website about national origin and religious discrimination, as well as information on how to file a charge. If you think that you, or someone you know, has been discriminated against because of national origin or religion and want to learn more about exercising your legal rights, please read the information provided or go to <http://www.eeoc.gov/>

The scenarios described below are based on charges EEOC has received over the past few months. The following questions and answers are meant to provide guidance on what constitutes illegal discrimination and positive steps you can take to exercise your rights in the workplace.

INTRODUCTION

Title VII of the Civil Rights Act of 1964 prohibits workplace discrimination based on religion, ethnicity, country of origin, race and color. Such discrimination is prohibited in any aspect of employment, including recruitment, hiring, promotion, benefits, training, job duties, and termination. Workplace harassment is also prohibited by Title VII. In addition, an employer must provide a reasonable

accommodation for religious practices unless doing so would result in undue hardship. Title VII prohibits retaliation against someone who complains about a discriminatory practice, files a charge, or assists in an investigation of discrimination in any way. Employers with 15 or more employees are required to comply with Title VII. Most unions and employment agencies are also covered.

HIRING AND DISCHARGE

I am a South Asian woman from Bangladesh. I applied for a job at a bakery and had a phone interview with the manager. She seemed to like me a lot and she offered me the job over the phone. When I came in to work the first day, she appeared to be startled by my appearance. I have dark skin and wear a hijab. She brusquely stated that she had found someone "better suited to the job" and sent me home. I don't know what to do about this.

An employer may not refuse to hire someone because of his or her religion, national origin, race or color. However, it is often difficult to find out exactly why a person was not hired for a job. In your situation, it appears that you were sent home because the employer had a negative reaction to your hijab, which you wear as part of your religious and/or cultural identity. But the only way to really know is to get more facts. You can ask the employer for an explanation of its business reasons.

Let's assume that when the employer saw you wearing your hijab, she worried about how her customers would feel about it. Customer preference is never a justification for a discriminatory practice. Refusing to hire someone because customers or co-workers may be "uncomfortable" with that person's religion or national origin is just as illegal as refusing to hire that person because of religion or national origin in the first place. Similarly, an employer may not fire someone because of religion and/or national origin. This prohibition applies to other employment decisions as well, including promotion, transfers, work assignments and wages.

Even though you have a gut feeling that the reason you were turned away is due to your religious identity or national origin, a fuller explanation of the employer's business reasons would be needed before determining whether the action was discriminatory. You may contact the EEOC or your state Fair Employment Practices Agency and file a charge. We will assess the allegation and conduct the appropriate investigation.

HARASSMENT

I am an Arab American man and have been a salesman at a large car retailer for five years. After September 11, my coworkers stopped talking to me, and there has been a lot of tension. One coworker started calling me names like

"camel jockey" and "the local terrorist." I used to have a good relationship with my coworkers and enjoyed my job, but now I dread coming to work each day. What can I do about my situation?

Racial and/or ethnic epithets and general workplace hostility can amount to unlawful harassment. While many employees feel powerless in this situation, the important thing to remember is that you have options. Even if your situation does not amount to illegal harassment, you can still take steps to try to improve the situation by communicating with your employer about it.

Coming up with an acceptable solution to the problem depends on your specific circumstances. If you have had a good relationship with these coworkers in the past, perhaps the most effective approach would be to discuss the conduct directly with them. On the other hand, if you are uncomfortable talking with them about it, or if the harassment has continued for an extended period, you should notify your employer about the harassment. Your employer is legally required to take steps to end harassment. Follow the employer's complaint procedure, if it has one, or notify a manager or other company official. If you are worried that your coworkers might retaliate against you for complaining, you should know that your employer has a legal duty to protect you against retaliation.

Employers can do different things to address these types of situations. The employer may decide to sit down with both you and your coworkers and explain why the comments are unacceptable. Since, in your situation, there is also overall workplace tension, another option would be training for all employees addressing harassment in the workplace. If there is no improvement in your coworkers' conduct, your employer may choose to punish the harassers for their behavior. The bottom line is that the employer must take action that effectively ends the harassment.

It is possible that your employer may not be helpful to you, or might not see this as a problem at all. While most employers try to prevent workplace harassment, there are situations where an employer may condone or even perpetrate this type of behavior. In those situations, it is going to be very difficult to solve the workplace problems through dialogue. You can contact the EEOC for guidance or file a charge of discrimination at any time. If you decide to file a charge with EEOC, it is most helpful if you document any incidents that occur, including the dates on which they occurred, and the names of the harassers. There are strict deadlines for filing charges. A charge of employment discrimination must be filed with EEOC within 180 days or 300 days if the state has a fair employment practices agency of the date of the disputed conduct. See below for more information on filing a charge of discrimination.

RELIGIOUS ACCOMMODATION

I am a computer specialist at a software company downtown. As a devout Muslim, I am required to attend prayer services at my mosque for a short period on Friday afternoons. Obviously this conflicts with my work hours. Can I ask for the time off to attend services?

You can ask your employer for permission to attend services. When an employer's workplace policies interfere with its employee's religious practices, the employee can ask for something called a "reasonable accommodation." A "reasonable accommodation" is a change in a workplace rule or policy to let you engage in a religious practice. Your employer is required to provide you with such an accommodation unless it would impose an undue hardship on the employer's business. This means the employer is not required to provide an accommodation that is too costly or difficult to provide. The key is that you should work closely with your employer in finding an appropriate accommodation.

Whether your employer can accommodate your religious practices will depend upon the nature of the work and the workplace. Usually, your employer can allow you to use lunch or other break times for religious prayer. If you require additional time for prayer, your employer can require you to make up the time.

There are many situations in which the accommodation of Islamic religious practices may not impose a monetary or administrative burden on the employer for example, allowing an employee to utilize appropriate space for prayer. However, each situation is different. If the accommodation would impose a burden on the employer that cannot be resolved, the employer is not required to allow the accommodation. If your employer is unsure of its obligations to provide you with religious accommodations, feel free to [contact EEOC](#) with your questions.

I am a Sikh man and the turban that I wear is a religiously-mandated article of clothing. My supervisor tells me that my turban makes my coworkers "uncomfortable," and has asked me to remove it. What should I do?

If a turban is religiously-mandated, you should ask your employer for a religious accommodation to wear it at work. Your employer has a legal obligation to grant your request if it does not impose a burden, or an "undue hardship," under Title VII. Claiming that your coworkers might be "upset" or "uncomfortable" when they see your turban is not an undue hardship.

If you or your employer has questions about employer obligations to accommodate religious practices, feel free to [contact EEOC](#) for more detailed information. If your employer continues to insist that you remove your turban, or takes adverse action against you for refusing to remove it, you may want to contact EEOC to file a charge.

HOW TO FILE A CHARGE OF DISCRIMINATION

Anyone who believes that s/he has been subjected to discrimination in violation of Title VII may file a charge with the nearest field office of the EEOC. Persons who file a charge, oppose unlawful employment discrimination, participate in employment discrimination proceedings, or otherwise assert their rights under the laws enforced by the Commission are protected against retaliation. An EEOC charge must be filed within 180 days or 300 days if the state has a fair employment practices agency of the date of the disputed conduct. When charges or complaints are filed too late, you may not be able to obtain any remedy. Charges may be filed in person, by mail or by telephone by contacting the [nearest EEOC office](#). Field offices are located throughout the United States. To be connected to the appropriate office, please call 1- 800-669-4000. EEOC's TTY number is 1-800-669-6820. To avoid delay, call or write beforehand if you need special assistance, such as an interpreter, to file a charge.

The [Department of Justice Office of Special Counsel for Immigration Related Unfair Employment Practices](#) enforces the prohibition on national origin discrimination as it relates to hiring and discharge against employers with four to fourteen employees. If your employer has between four and fourteen employees and you feel you have been subjected to discrimination based on your national origin, contact the Office of Special Counsel at 1-800-255-7688.

For more information on discrimination against Muslims, Arabs, South Asians and Sikhs in the aftermath of September 11, 2001, please contact [DOJ's Initiative to Combat Post-9/11 Backlash](#).

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